



STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

MEMBERS

EDWARD J. HASELTINE, CHM.
RICHARD H. CUMMINGS
JOSEPH B. MORIARTY
EDWARD L. ALLMAN
JAMES C. ANDERSON

Pine Inn Plaza, Building No. 2
117 Manchester Street
Concord, New Hampshire 03301
Tel. (603) 271-2587

October 5, 1978

CASE NO. A-0408:1

Decision No. 780042

Wilbur L. Jenkins, Personnel Director
City Hall Annex
27 Market Street
Manchester, New Hampshire 03101

Dear Mr. Jenkins:

PELRB in Executive Session (all members but Mr. Anderson present), discussed at great length your June 2, 1978 request for a full and detailed decision and findings in the ULP case filed by Local 298, AFSCME, against the City of Manchester and the Highway Commission and your subsequent appeal on August 14, 1978 requesting the Board vacate its decision in the above case, No. 780020.

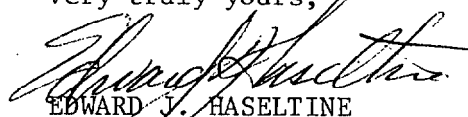
After careful consideration and review of the grandfathered unit and the Supreme Court ruling, the members are unanimous in their decision to vacate its preliminary order and finds, as follows:

DECISION AND ORDER

Local 298, AFSCME, is the sole and exclusive representative of all employees of the Department of Highways, who are members of the Union, except the engineers, executives, temporary help and part-time help, and all management or supervisory employees of the Department who have authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, for the purpose of collective bargaining.

PELRB hereby vacates its preliminary order No. 780020, May 23, 1978.

Very truly yours,


EDWARD J. HASELTINE
Chairman

CC: James C. Anderson, President

"Live Free or Die"



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Pine Inn Plaza, Building No. 2
117 Manchester Street
Concord, New Hampshire 03301
Tel. (603) 271-2587

January 24, 1979.

CASE NO. A-0408:1

DECISION NO. 780042

Wilbur L. Jenkins, Personnel Dir.
City Hall Annex
27 Market Street
Manchester, New Hampshire 03101

and

James C. Anderson, President
N. H. Public Employees Council No. 68
321 Lincoln Street
Manchester, New Hampshire 03103

Gentlemen:

The position of the Board is still unchanged. We understand from the language of the contract that you represented any (emphasis added) employee of the union in accordance with the terms of the "grandfathered" agreement and the Supreme Court ruling, SEA v. N.H. PELRB, N.H. 7540, November 9, 1976, which stated

"In our opinion, the provisions of the sections relied on by the Board which place certain limits on certification apply only to new certifications by the new board and not to certifications which already existed prior to the effective date of the chapter. Such interpretation would seem to be consistent with the legislative purpose to 'foster harmonious and cooperative relations between public employers and their employees, . . . ' and to provide an orderly transition from the old system to the new by allowing existing certifications to continue until they are revoked thorough the election procedure, RSA 273-A:10 and 11, I(b) (Supp. 1975) and by allowing 'bargaining units' in existence on the effective date of the chapter also to continue unmodified until valid petitions are filed as provided for in the statute. RSA 273-A:10 (Supp. 1975)."

"Live Free or Die"

and,

"The fact that some previously established bargaining units are inconsistent with the new requirements is the unavoidable consequence of the grandfather clause which expressly states that the act shall not 'terminate or modify a bargaining unit' in existence on its effective date. In our opinion, the legislature chose to allow these inconsistencies rather than disrupt the status quo and require all new elections."

The Board reaffirms its decision of October 5, 1978, as follows:

DECISION & ORDER

Local 298, AFSCME, is the sole and exclusive representative of all employees of the Department of Highways, who are members of the Union (emphasis added), except the engineers, executives, temporary help and part-time help, and all management or supervisory employees of the Department who have authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, for the purpose of collective bargaining.

Very truly yours,


EDWARD J. HASELTINE
CHAIRMAN